REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of March 18, 2008 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Office is expressly authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-0951.

Claim Rejections – 35 USC § 112

In the Office Action, Claims 1-5, 7-8, 10, 14-18, 20-21, and 23 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1 and 14 have been amended to overcome any vagueness or unclarity asserted on pages 3-4 of the Office Action.

In view of the above, Applicants respectfully request that the claim rejections under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim Rejections – 35 USC § 103

Claims 1-5, 7-8, 10-18, 20-21, and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,006,197 to d'Eon, *et al.* (hereafter d'Eon), in view of applicant-admitted prior art (AAPA) or U.S. Patent 6,816,903 to Rakoshitz, *et al.* (hereinafter Rakoshitz), and further in view of U.S. Patent 7,185,353 to Schlack (hereinafter Schlack). Claims 1-5, 7-8, 10-18, 20-21, and 23 were rejected under 103(a) as being unpatentable over non-patent literature "Web Marketing through Oracle iMarketing" by Bellare (Oracle iMarketing), in view of Rakoshitz and Schlack.

Although Applicants respectfully disagree with the rejections, Applicants have amended the claims so as to expedite prosecution of the present application. However, such amendments should not be interpreted as the surrender of any subject matter, and

Applicants expressly reserve the right to present the original version of any of the amended claims in any future divisional or continuation applications from the present application.

Applicants have amended independent Claims 1, 11, and 14 to further emphasize certain aspects of the invention. As discussed herein, the claim amendments are fully supported throughout the Specification. No new matter has been introduced by the claim amendments.

Aspects of Applicants' Invention

It may be helpful to reiterate certain aspects of Applicants' invention prior to addressing the cited references. One embodiment of the invention, as typified by amended Claim 1, is a method of dynamically modifying an electronic campaign comprising:

The method can include identifying available network capacity of a combined packet-switched and circuit-switched network comprising a plurality of distinct delivery channels; and transmitting electronic content for the electronic campaign over the plurality of delivery channels of the network according to a predetermined outbound transmission flow rate for the electronic campaign. The plurality of distinct delivery channels can include at least one private network channel for communicating with a private network device, at least one telephonic channel for communicating with telephonic device, and at least one public network channel for communicating with a public Web site.

The method also can include receiving consumer responses associated with each of the plurality of delivery channels used to transmit the electronic content; analyzing the received consumer responses and determining an effectiveness of the electronic campaign over each of said plurality of delivery channels.

The method further can include selectively redirecting at least a portion of the electronic content from delivery channels determined to be less effective to a delivery channel determined to be more effective, and dynamically modifying said outbound transmission flow rate for said electronic campaign according to said determined effectiveness of the electronic campaign and said identified available network capacity.

See, e.g., Specification, page 12, line 16 to page 14 ,line 2.

The Claims Define Over The Prior Art

Conventional e-marketing systems utilizes an off-line multi-step process to implement e-marketing campaigns. The process begins by developing an e-marketing campaign and identifying a target audience for the campaign. A quantitative analysis then can be performed to determine the likely amount of network traffic that will be generated by the e-marketing campaign. Another analysis is then performed separately to determine the peak capacity of the network, less any non-marketing related traffic already in existence. If the analysis indicates that the e-marketing campaign will result in a network or system overload condition, then the target audience is limited to prevent such a condition. Alternatively, a different execution strategy for the e-marketing campaign can be developed so as not to exceed the network capacity. In any case, such determinations are made prior to beginning the e-marketing campaign. See Specification, page 1, line 22 to page 2, line 5.

As conventional e-marketing systems rely upon theoretical models which are based on historical and statistical data, real time network conditions -- for example the actual network effects resulting from an ongoing e-marketing campaign -- typically are not adequately considered. While the use of historical and statistical data can provide a basis for estimating the effectiveness of an e-marketing campaign and the network congestion resulting therefrom, conditions such as unexpected user demand can render

the theoretical models invalid. Thus, network overload conditions still can occur. See Specification, page 2, lines 6-12.

In order to overcome the drawback of the conventional e-marketing systems, the present invention provides a method and system for dynamically modifying an e-marketing based on network activity. In particular, the present invention can determine the network capacity over which the e-marketing campaign is conducted and also monitor the effectiveness of the e-marketing campaign. Based on the determined network capacity and the effectiveness of the e-marketing campaign, the e-marketing campaign can be dynamically adjusted or regulated. This ensures that available network capacity is more efficiently utilized and that particular demographic segments of a target audience that have responded favorably to the e-marketing campaign can be more effectively targeted. See Specification, page 7, lines 2-10. By regulating the e-marketing campaign according to factors such as the network capacity and the targeted audience response rate, the electronic marketing content communicated to the target audience can be adjusted sooner a nd more frequently than in conventional e-marketing campaigns. Moreover, dynamically adjusting the e-marketing campaign responsive to ongoing monitoring of the audience response rate limits the possibility of a network outage, traffic congestion, and/or other network associated problems. See Specification, page 3, lines 17-23.

D'Eon discloses a system and method for measuring effectiveness of Internet marketing campaign. The system of d'Eon correlates the number of impressions of Web advertisements with post-impression transactional activity to measure the effectiveness of the advertisement. However, d'Eon does not disclose selectively redirecting at least a portion of the electronic content from delivery channels determined to be less effective to a delivery channel determined to be more effective, and dynamically modifying the outbound transmission flow rate for the electronic campaign according to the determined

effectiveness of the electronic campaign and the identified available network capacity, as recited in independent Claims 1, 11, and 14 of the present application.

It is noted that d'Eon does not disclose that the measurement of the effectiveness of the Web advertising should be used in real time to dynamically modify the outbound transmission flow rate of the electronic campaign and to selectively redirect at least a portion of the electronic content from delivery channels determined to be less effective to a delivery channel determined to be more effective. In fact, d'Eon has only one delivery channel, namely the Internet. D'Eon does not disclose the concept of delivering electronic content over a plurality of distinct delivery channels (such as private network channel, telephonic channel, and public network channel) as in the present invention. It is noted that deleting the not-effective banners and using only the effective banners are not the same as redirecting a portion of the electronic content from delivery channels determined to be less effective to a delivery channel determined to be more effective, as in the present invention. This is because both the not-effective banners and the effective banners are delivered over the same channel, namely the Internet.

Oracle iMarketing also discloses measuring effectiveness of the Web banner advertisement and modifying the marketing campaign according to the measured effectiveness. Similar to d'Eon, Oracle iMarketing also does not disclose the concept of delivering electronic content over a plurality of distinct delivery channels, selectively redirecting at least a portion of the electronic content from delivery channels determined to be less effective to a delivery channel determined to be more effective, and dynamically modifying the outbound transmission flow rate for the electronic campaign according to the determined effectiveness of the electronic campaign and the identified available network capacity, as recited in independent Claims 1, 11, and 14 of the present application.

As already discussed above, although AAPA discloses determining the likely amount of network traffic that will be generated by an e-marketing campaign and peak capacity of the network, such determinations are made prior to beginning the e-marketing campaign. The object of the present invention is to overcome the drawback of AAPA by determining the effectiveness of the electronic campaign and identifying the available network capacity in real time, as well as dynamically modifying the outbound transmission flow rate for the electronic campaign according to the determined effectiveness of the electronic campaign and the identified available network capacity.

Rakoshitz discloses a method and system for monitoring and allocating bandwidth on a plurality of locations or nodes in a telecommunication network. It is noted that Applicants of the present invention do not intend to claim to have invented monitoring traffic flow in a network or determining available network capacity. Rather, an inventive concept of the present invention is to dynamically modify the outbound transmission flow rate for the electronic campaign according to the effectiveness of the electronic campaign and the available network capacity determined in real time, which is not disclosed by any of the cited references or any combination thereof.

Schlack discloses a system and method for scheduling advertisement in a television service network environment. An ad scheduler prepares an ad insertion schedule based on channel change statistical information and avail time information. However, Schlack also does not disclose delivering electronic content over a plurality of distinct delivery channels. Schlack only concerns delivering advertisement over one type of channel, namely television service network. Therefore, Schlack does not make up for the deficiencies of the other cited references, individually or in combination.

Accordingly, the cited references, alone or in combination, fail to disclose or suggest each and every element of Claims 1, 11, and 14, as amended. Applicants therefore respectfully submit that amended Claims 1, 11, and 14 define over the prior art.

Furthermore, as each of the remaining claims depends from Claim 1, 11, or 14 while reciting additional features, Applicants further respectfully submit that the remaining claims likewise define over the prior art.

Applicants thus respectfully request that the claim rejections under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

AKERMAN SENTERFITT

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